

# Senator Charles Poochigian



## NOTES FROM THE SENATE REPUBLICAN CAUCUS CHAIRMAN

Senator Jim Brulte,  
*Republican Leader*

Senators:

Sam Aanestad

Dick Ackerman

Roy Ashburn

Jim Battin

Jeff Denham

Dennis Hollingsworth

Ross Johnson

William J. "Pete" Knight

Bob Margett

Tom McClintock

Bruce McPherson

Bill Morrow

Rico Oller

Chuck Poochigian

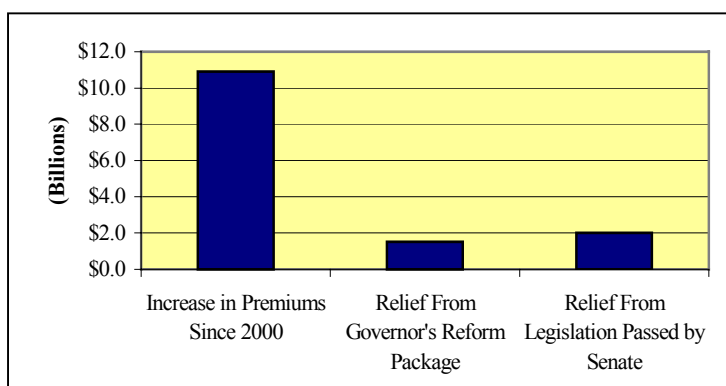
## WORKERS' COMPENSATION CRISIS: GETTING BEYOND THE RHETORIC

*"It is clear that something very dramatic must be done to fix the state's workers' compensation system. Based on the limited information provided by the Governor and the Insurance Commissioner, their proposal falls woefully short by failing to address the most significant problems including skyrocketing litigation costs, over-utilization of the system and subjective medical claims."*

*"I am disappointed that their proposal does little to lower the cost of the workers' compensation system to the state's employers and tinkering around the edges of a massive crisis facing California's job creators will not do. In the end, any reform effort must be judged on whether rates go down dramatically and truly injured workers are adequately compensated."*

– Senator Chuck Poochigian

While some state officials have expressed the view that the workers' compensation system is in crisis, they have offered little more than rhetoric. As we enter the latter phase of the 2003 legislative session, it is imperative that the Governor, Insurance Commissioner and Legislature move past their mere acknowledgement of the crisis by embracing comprehensive reform proposals offered by Republicans or provide details of their own sketchy reform ideas.



June 17, 2003

	<b>SENATE /ASSEMBLY REPUBLICANS</b>	<b>SENATE DEMOCRATS</b>	<b>GOVERNOR DAVIS/INSURANCE COMMISSIONER GARAMENDI</b>
<b>ROLLBACK OF BENEFIT INCREASES ENACTED LAST YEAR</b>	Rollback of all of AB 749 from last year, including increases which were included Jan. 03. SB 1010	No proposal	No proposal.
<b>ROLLBACK OF COLA INCREASES TO BENEFITS (BEGIN 2006)</b>	Rollback of the annual increases which kick in on 1/1/06. SB 1010	No proposal	No proposal.
<b>MEDICAL FEE SCHEDULE</b>	Based on national standards; by Jan 1, 2004. SB 757 Based on RBRVS x 115%; Jan, 2005. AB 1482	Based on Medicare/Medi Cal x 120%; Jan 1, 2004. SB 228	Based on Medicare/Medi Cal x 120%; Jan 1, 2004. SB 228
<b>UTILIZATION</b>	Establish utilization schedule by July 1, 2004. SB 757 Study utilization and quality of care patterns. AB 1483	No proposal. (see SB 354)	No proposal. (see SB 354)
<b>SELF REFERRAL LOOPHOLE</b>	Eliminate loophole. SB 899; AB 1579	Eliminate loophole. SB 354	Eliminate loophole.
<b>OBJECTIVE MEDICAL FINDINGS</b>	Mandate use of objective medical findings. SB 414	No proposal.	No proposal.
<b>ESTABLISHED MEDICAL GUIDELINES</b>	Require use of established medical guidelines. SB 893; AB 1481	No proposal	No proposal.
<b>LIBERAL CONSTRUCTION</b>	Requires liberal construction once injury has been determined and it results in serious harm. AB 431	No proposal	No proposal.
<b>INJURY APPORTIONMENT</b>	Clarifies that an employee cannot be more than 100% compensated for identical, multiple injuries. SB 714; AB 1481	No proposal.	No proposal.
<b>PRIOR COMPENSABLE INJURIES</b>	Establishes the prior permanent disability presumption. SB 714	No proposal.	No proposal.
<b>NON-WORK RELATED INJURIES</b>	Require work-related injury be at least 50% of the cause of injury. SB 757 Require that the work injury be the “predominant cause” of the injury. SB 365	No proposal.	No proposal.
<b>PSYCHIATRIC INJURIES</b>	Requires proof of “clear and convincing evidence.” SB 366	No proposal.	No proposal.
<b>CHIROPRACTIC REFORM</b>	No proposal. (see SB 757)	Caps maximum number of visits at 15 1-hour visits. SB 354	No proposal.
<b>PHYSICAL THERAPY REFORM</b>	No proposal. (see SB 757)	No proposal.	No proposal.

	<b>SENATE /ASSEMBLY REPUBLICANS</b>	<b>SENATE DEMOCRATS</b>	<b>GOVERNOR DAVIS/INSURANCE COMMISSIONER GARAMENDI</b>
--	---	-------------------------	--

<b>VOCATIONAL REHABILITATION REFORM</b>	Eliminate mandatory nature of program. SB 758	No proposal.	No proposal
<b>VOCATIONAL REHABILITATION CASHOUT</b>	Elimination of this benefit reversed only for employees who've hired lawyers. SB 758	No proposal.	No proposal.
<b>CURB LITIGATION COSTS OF 5814 CLAIMS</b>	Appropriately tie the 10% penalty to the infraction. Establish 90-day statute of limitations. SB 457; SB 759 Limit the number of times a violation can be counted as a penalty. SB 759	No proposal.	No proposal.
<b>"SINGLE PAYER" PROGRAM</b>	No proposal.	Mandate that employers must pay for health insurance, be SCIF members, and not have a claim in 5 years in order to have rates frozen. SB 229	HMO "Pilot" Program to merge health care and workers' compensation.
<b>USE OF GENERIC DRUGS</b>	Requires use of generic drugs. SB 223	No proposal.	Encourages use of generic drugs.
<b>RETURN TO WORK TRANSFER OF CREDITS</b>	No proposal.	No proposal.	Allow transfer of credits among employees.
<b>ALTERNATIVE DISPUTE RESOLUTION PROGRAM</b>	Expand to all industries. AB 1434	No proposal.	Expand to all industries (but still only available to employees whose union has collectively bargained it.)
<b>PROFESSIONAL TRAINING</b>	Certify and train physicians. Train raters and claims administrators. AB 1438	No proposal.	Train raters and claims administrators.
<b>PPO NETWORK</b>	Allow for insurers and self-insured to contract with a PPO. AB 1480	No proposal.	No proposal.
<b>FEE SCHEDULES IN- LIEU OF ESTABLISHED SCHEDULES</b>	Mandates that the existing fee schedules must be applied regardless of facility. SB 757 Codify the Kunz decision. AB 1482	No proposal.	No proposal.
<b>FRAUD</b>	Eliminate ability to claim subjective and non-work related injuries. SB 414, SB 893, SB 757 Increase civil penalties. Mandate disclosure of past employee fraud convictions. AB 1480	No proposal.	Increase penalties for <i>employer</i> fraud only. Use of private EDD data for <i>employer</i> fraud only
<b>WORK COMP COMMISSION</b>	No proposal.	No proposal.	Increase Size of Workers' Comp Commission

	<b>SENATE /ASSEMBLY REPUBLICANS</b>	<b>SENATE DEMOCRATS</b>	<b>GOVERNOR DAVIS/INSURANCE COMMISSIONER GARAMENDI</b>
--	---	-------------------------	--

<b>PRISONER COVERAGE</b>	Prohibit benefits provided while incarcerated. SB 731; AB 1580	No proposal.	No proposal.
<b>CLASSIFICATION ASSIGNMENT</b>	Requires notification of classification changes. SB 176	No proposal.	No proposal.
<b>INDEPENDENT MEDICAL REVIEW</b>	No proposal.	No proposal.	Independent medical review – however it is NOT binding.
<b>INSURANCE RATES</b>	No proposal.	Prohibit excessive rates. SB 191	No proposal.

---

---

## CONTACT INFORMATION

Senator Poochigian's website can be found by visiting: <http://republican.sen.ca.gov/web/14> .

**CAPITOL OFFICE**  
**(916) 445-9600**

**FRESNO OFFICE**  
**(559) 253-7122**

**RIPON OFFICE**  
**(209) 599-8540**